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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91197754
Party	Defendant Laundry Acquisition Inc. (by change of name from Lavatec, Inc.)
Correspondence Address	JOHN C LINDERMAN MCCORMICK PAULDING HUBER LLP 185 ASYLUM STREET, CITY PLACE II HARTFORD, CT 06103 UNITED STATES lind@ip-lawyers.com
Submission	Reply in Support of Motion
Filer's Name	John C. Linderman
Filer's e-mail	lind@ip-lawyers.com
Signature	/John C. Linderman/
Date	08/17/2011
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In the matter of Trademark Application No. 76701998  
for the mark: LAVATEC  
Published on November 2, 2010

Opposition No. 91197754

With respect to the second ground, Applicant acknowledges the provisions of 37 CFR §2.120(a)(3) requiring initial disclosures before conducting a party's own discovery, but considers Opposer's objections to Applicant's Initial Disclosure to be without merit. Opposer's objections and motion for a protective order are refuted separately in Applicant's Opposition to Opposer's Motion to Compel and for Protective Order, and the refutations are not duplicated here.

With respect to the first ground, Applicant denies ever having granted Opposer a 30-day extension of time to respond to Applicant's discovery requests. Hence Applicant did not grant or renege on an extension as asserted by Opposer in Pars. 5, 12, and 15 of Opposer's Response.

It is to be noted that the facts stated in Pars. 4 and 5 occurred in a single telephone call, and the facts stated in Pars. 4-6 all occurred on July 14, 2011. Hence by the end of the day on July 14, 2011, Opposer's counsel knew that no extension would be granted unless the conditions attached by Applicant were agreed to.

Opposer's unilateral deeming that Applicant's conditions for an extension were moot as stated in Par. 12 after Opposer rejected the conditions is naïve at best. The same can be said with respect to Opposer's counsel's view that disparagement was a non-issue in Par. 14.

In short, with no consent to an extension beyond the gratuitous extension to July 29, 2011 offered by Applicant (Applicant's Exhibit 9), Opposer should have moved for a protective order if it did not intend to file timely responses to Applicant's discovery requests. Instead Opposer prepared and served Opposer's own discovery requests on July 29, 2011 (Exhibit 16 in Applicant's Opposition to Opposer's Motion to Compel).

By failing to timely respond to Applicant's discovery requests or file a motion for protective order, Opposer waived its right to object to Applicant's interrogatories and document requests, and should be ordered to respond accordingly in a timely fashion. For the same reason, Opposer also should be deemed to have admitted all of Applicant's Requests for Admission pursuant to F.R.Civ.P 36(a)(3). An order granting the stated relief is respectfully requested.

Respectfully submitted

LAVATEC, INC., Applicant

By s/ John C. Linderman

John C. Linderman

Richard J. Twilley

McCormick, Paulding & Huber LLP

185 Asylum Street, CityPlace II

Hartford, CT 06103-3410  
Ph. 860 549-5290  
[lind@ip-lawyers.com](mailto:lind@ip-lawyers.com)  
[twilley@ip-lawyers.com](mailto:twilley@ip-lawyers.com)  
Attorneys for Applicant

CERTIFICATE SERVICE

The undersigned hereby certifies that a copy of the foregoing

**APPLICANT'S REPLY IN SUPPORT OF ITS MOTION TO COMPEL AND ORDER  
FOR ADMISSIONS**

was sent by email and served by First Class U.S. Mail, postage prepaid this 17th day of August 2011, to the following counsel of record:

Andrea Fiocchi, Esq.  
Sarah E. Tallent, Esq.  
44 Wall Street, 10<sup>th</sup> Fl  
New York, NY 10005

By s/John C. Linderman  
John C. Linderman